

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

THOMAS MARSHALL BYRD,)	
)	
Petitioner,)	
)	1:19CV1189
v.)	1:11CR203-1
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

This matter is before this court for review of the Recommendation filed on March 19, 2020, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 121.) In the Recommendation, the Magistrate Judge recommends that Petitioner's request for relief under the First Step Act, (Doc. 119), be denied and that this action be dismissed without prejudice to Petitioner promptly filing a corrected motion on the proper § 2255 forms if he seeks to attack his sentence under that statute and receives permission to do so. The Recommendation was served on the parties to this action on

March 19, 2020. (Doc. 122). Petitioner filed timely objections, (Doc. 123), to the Magistrate Judge's Recommendation.¹

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 121), is **ADOPTED**. **IT IS FURTHER ORDERED** that Petitioner's request for relief under the First Step Act, (Doc. 119), is **DENIED** and that this action is **DISMISSED** sua

¹ Notably, Petitioner's objections do not challenge the substance of the Recommendation but rather ask that the court "consider the recent and present pandemic Coronavirus and compassionate relief when deciding [Petitioner's] case." (Doc. 123 at 1.) Even if the court were to convert Petitioner's motion to a request for Compassionate Relief, this court would find the motion insufficient to support relief.

sponte without prejudice to Petitioner promptly filing a corrected motion on the proper § 2255 forms if he seeks to attack his sentence under that statute and receives permission to do so. A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 6th day of May, 2020.


United States District Judge